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May 3, 2011

André Birotte, Jr.
United States Attorney, Central District of California
312 N. Spring Street
Los Angeles, CA 90012

Dear Mr. Birotte:

This office serves as the City Attorney for the City of Lake Forest. Lake Forest, located in Orange County, is a City of approximately 75,000 people in roughly 16.6 square miles. We write to inform you of the present situation with marijuana sales within Lake Forest and the City's efforts to address that situation, and to seek your assistance in the matter. We are presently aware of 12 operating store-front marijuana dispensaries within the City. Of these, eight are located in a single commercial strip center located at 24602 Raymond Way, near Interstate 405 at El Toro Road. We have recently discovered that these eight, as well as one other dispensary located across the street at 24601 Raymond Way, are located less than 600 feet from a Montessori school serving pre-school and kindergarten students.

The City of Lake Forest has been involved in lengthy and expensive litigation to abate these dispensaries, which in addition to their flagrant violation of federal narcotics laws, routinely create secondary law enforcement and land use issues for the City. The City is concerned that due to the large mass of these businesses and what we believe are the huge receipts they derive from these illegal activities, they will continue to commit vast resources to opposing our abatement efforts. The landlords of these businesses have indicated that these continued illegal tenancies are "just business".

The City of Lake Forest's zoning regulations do not permit marijuana dispensaries; in fact, the City's Municipal Code prohibits any use that violates either state or federal law. Accordingly, the City has attempted for nearly two years now to rid the community of these storefront dispensaries by bringing nuisance-abatement lawsuits in state court under the City's local land-use authority, consistent with California state law. Last May we were successful in obtaining preliminary injunctions against the dispensaries. Several of the defendants appealed, however, and the California Court of Appeal promptly stayed the enforcement of those injunctions. The appeals have yet to be decided on their merits, and the dispensaries have been allowed to remain open with impunity since that time. Other defendants have purportedly

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"closed" their shops, only to have a marijuana dispensary re-open in the same location under allegedly-different operators who then claim not to be bound by the earlier injunction.

Most recently, the California legislature enacted legislation effective January 1, 2011 that prohibits marijuana dispensaries within 600 feet of schools. When the City discovered that nine of these dispensaries are within that distance of a school, we against sought – and obtained – a temporary restraining order from the state court to close those dispensaries. However, before the order to show cause re preliminary injunction could even be heard on that matter, the California Court of Appeal once again stepped in to block enforcement of the injunction. In short, the City has been stymied at every turn in its legal efforts to deal with the problem of these commercial marijuana dispensaries.

We are aware of the U.S. Department of Justice's position, outlined in the 2009 Ogden Memorandum regarding resource-allocation priorities vis-a-vis seriously-ill individuals who use marijuana as part of a medically-recommended treatment regimen in compliance with state law, as well as its policy of continuing to enforce the Controlled Substances Act vigorously against individuals and organizations that participate in unlawful manufacturing and distribution of marijuana, even if such activities are permitted under state law. We are also aware that your colleague in the Northern District, Ms. Haag, reiterated in a February 1, 2011 letter to the Oakland City Attorney (a copy of which is enclosed here for your reference) the Justice Department's position that it will enforce the CSA especially to prohibit the commercial manufacture and distribution of marijuana.

We seek your office's assistance in combating the illegal store-front marijuana dispensaries in Lake Forest that openly flout federal, local, and even state law, yet have thus far effectively evaded the City's legal efforts to close them. We welcome the opportunity to meet with you or another member of your office to discuss how we can work together to address this.

Sincerely,


Scott C. Smith
Jeffrey V. Dunn
Daniel Roberts
of Best Best & Krieger LLP
City Attorney
City of Lake Forest

Enclosure

cc: Dennise Willett, Chief, Santa Ana Division
Robert Dunek, City Manager, City of Lake Forest



U.S. Department of Justice

United States Attorney
Northern District of California

Melinda Haag
United States Attorney

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February 1, 2011

John A. Russo, Esq.
Oakland City Attorney
1 Frank Ogawa Plaza, 6th Floor
Oakland, California 94612

Dear Mr. Russo:

I write in response to your letter dated January 14, 2011 seeking guidance from the Attorney General regarding the City of Oakland Medical Cannabis Cultivation Ordinance. The U.S. Department of Justice is familiar with the City's solicitation of applications for permits to operate "industrial cannabis cultivation and manufacturing facilities" pursuant to Oakland Ordinance No. 13033 (Oakland Ordinance). I have consulted with the Attorney General and the Deputy Attorney General about the Oakland Ordinance. This letter is written to ensure there is no confusion regarding the Department of Justice's view of such facilities.

As the Department has stated on many occasions, Congress has determined that marijuana is a controlled substance. Congress placed marijuana in Schedule I of the Controlled Substances Act (CSA) and, as such, growing, distributing, and possessing marijuana in any capacity, other than as part of a federally authorized research program, is a violation of federal law regardless of state laws permitting such activities.

The prosecution of individuals and organizations involved in the trade of any illegal drugs and the disruption of drug trafficking organizations is a core priority of the Department. This core priority includes prosecution of business enterprises that unlawfully market and sell marijuana. Accordingly, while the Department does not focus its limited resources on seriously ill individuals who use marijuana as part of a medically recommended treatment regimen in compliance with state law as stated in the October 2009 Ogden Memorandum, we will enforce the CSA vigorously against individuals and organizations that participate in unlawful manufacturing and distribution activity involving marijuana, even if such activities are permitted under state law. The Department's investigative and prosecutorial resources will continue to be directed toward these objectives.

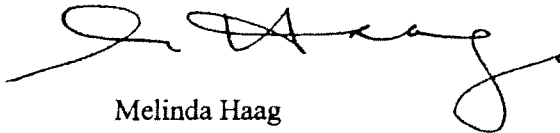
Consistent with federal law, the Department maintains the authority to pursue criminal or civil actions for any CSA violations whenever the Department determines that such legal action is warranted. This includes, but is not limited to, actions to enforce the criminal provisions of the CSA such as Title 21 Section 841 making it illegal to manufacture, distribute, or possess with intent to distribute any controlled substance including marijuana; Title 21 Section 856 making it

unlawful to knowingly open, lease, rent, maintain, or use property for the manufacturing, storing, or distribution of controlled substances; and Title 21 Section 846 making it illegal to conspire to commit any of the crimes set forth in the CSA. Federal money laundering and related statutes which prohibit a variety of different types of financial activity involving the movement of drug proceeds may likewise be utilized. The government may also pursue civil injunctions, and the forfeiture of drug proceeds, property traceable to such proceeds, and property used to facilitate drug violations.

The Department is concerned about the Oakland Ordinance's creation of a licensing scheme that permits large-scale industrial marijuana cultivation and manufacturing as it authorizes conduct contrary to federal law and threatens the federal government's efforts to regulate the possession, manufacturing, and trafficking of controlled substances. Accordingly, the Department is carefully considering civil and criminal legal remedies regarding those who seek to set up industrial marijuana growing warehouses in Oakland pursuant to licenses issued by the City of Oakland. Individuals who elect to operate "industrial cannabis cultivation and manufacturing facilities" will be doing so in violation of federal law. Others who knowingly facilitate the actions of the licensees, including property owners, landlords, and financiers should also know that their conduct violates federal law. Potential actions the Department is considering include injunctive actions to prevent cultivation and distribution of marijuana and other associated violations of the CSA; civil fines; criminal prosecution; and the forfeiture of any property used to facilitate a violation of the CSA. As the Attorney General has repeatedly stated, the Department of Justice remains firmly committed to enforcing the CSA in all states.

I hope this letter assists the City of Oakland and potential licensees in making informed decisions regarding the cultivation, manufacture, and distribution of marijuana.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Melinda Haag', with a long horizontal line extending to the left and a loop at the end.

Melinda Haag
United States Attorney
Northern District of California

cc: Kamala D. Harris, Attorney General of the State of California
Nancy E. O'Malley, Alameda County District Attorney